

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

The Sustainability Institute, <i>et al.</i> ,	)	Civil Action Number: 2:25-cv-02152-RMG
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
Donald J. Trump, in his official capacity	)	
as President of the United States, <i>et al.</i>	)	
	)	
Defendants.	)	

**RESPONSE TO ORDER, ECF NO. 146**

Consistent with the Court’s Order, ECF No. 146, to supplement the record on certain matters, Defendants respectfully submit the following responses.

**A. United States Department of Agriculture (Grant Awards 16, 22, 23, and 27–32)<sup>1</sup>**

The Court instructed Defendants to provide documents regarding the terminated Partnership for Climate Smart Commodities (“PCSC”) grant awards and the grant awards that remain paused for diversity, equity, inclusion and accessibility (“DEIA”) reasons after the *Woonasquatucket* injunction. ECF No. 146 at 15, Nos. 1 and 2; **Transcript of Hearing at 43–46**.

**1. Terminated PCSC Awards (Grant Awards 27–32):** *See* Woodrich Decl. (attached as Exhibit 1); Woodrich Decl., Ex. A–J.

**2. Awards that Remain Paused for DEIA Review (Grant Awards 16, 22, and 23):** *See* Woodrich Decl.; Woodrich Decl., Ex. K–L. As to Grant No. 16, additionally *see* Kovacs Decl. (attached as Exhibit 2); Kovacs Decl., Ex. A.

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<sup>1</sup> The Grant Award numbers used herein refer to the chart distributed by the Court during the hearing. Transcript at 31.

**B. United States Department of Transportation (Grant Awards 37 and 38)**

The Court instructed Defendants to provide documents regarding the decision to finalize or not to finalize the announced award selections that are not subject to finalized grant agreements. ECF No. 146 at 15, Nos. 3; **Transcript of Hearing at 63–64**. *See* Finfrock Decl. (attached as Exhibit 3); Finfrock Decl, Ex. A–D.

**C. United States Environmental Protection Agency (Grant Awards 2–12, 15)**

The Court instructed Defendants to provide documents regarding grant awards that were terminated, as well as two grant awards where the parties disagreed as to current status. ECF No. 146 at 15, Nos. 1, 4, and 5; **Transcript of Hearing at 32, 72**.

**1. Terminated Awards (Grant Awards 2–12):** *See* Voyles Decl. (attached as Exhibit 4); Voyles Decl., Ex. 1-7 (referred to as Exhibits A–G on PACER).<sup>2</sup>

**2. City of Madison (Grant Award 8):** *See* Voyles Decl.

**3. Alliance for Shenandoah Valley (Grant Award 15):** EPA suspects Grant 15 is a subaward of a grant administered by the National Fish and Wildlife Foundation, a passthrough entity who received a grant from EPA’s Chesapeake Bay Program Office. But EPA is unable to verify that using the grant number provided. There are no funding restrictions on Chesapeake Bay Program Office prime / passthrough grant recipients that would prevent them from drawing down funds from ASAP. EPA cannot verify whether any prime / passthrough grant recipients may have imposed specific conditions on their subawardees that may prevent them from drawing down.

On May 1, 2025, undersigned counsel communicated information regarding this grant to Plaintiffs’ counsel and offered to address any remaining questions.

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<sup>2</sup> EPA’s declaration refers to the attached exhibits numerically. Because the declarations also are identified by number, Defendants are identifying the exhibits attached to EPA’s declaration alphabetically on PACER, rather than numerically.

**D. Office of Management and Budget**

The Court instructed Defendants to provide documents regarding instructions given to the Defendant agencies to freeze all grants under the IRA or the IIJA. ECF No. 146 at 15, No. 6; **Transcript of Hearing** at 23–24. Undersigned counsel is advised that the Office of Management and Budget (OMB) has not instructed agencies, notwithstanding the President’s Executive Orders, to pause all funding under the IRA and the IIJA.

By way of explanation, on January 20, 2025, OMB issued guidance regarding the Unleashing American Energy Executive Order. *See* OMB Memorandum M-25-11, Guidance Regarding Section 7 of the Executive Order Unleashing American Energy (Jan. 21, 2025). Relevant here, OMB stated that Section 7’s pause on disbursement “only applies to funds supporting programs, projects, or activities that may be implicated by the policy established in Section 2 of the order” and that “[a]gency heads may disburse funds as they deem necessary after consulting with the Office of Management and Budget.” *Id.*

On January 27, 2025, OMB issued Memorandum M-25-13, which directed agencies to “complete a comprehensive analysis of all of their Federal financial assistance programs to identify programs, projects, and activities that may be implicated by any of the President’s executive orders,” and further directed that “[i]n the interim, to the extent permissible under applicable law, Federal agencies must temporarily pause all activities related to obligation or disbursement of all Federal financial assistance, and other relevant agency activities that may be implicated by the executive orders[.]” OMB Mem. M-25-13, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, at 2 (Jan. 27, 2025). On January 29, 2025, following litigation, OMB elected to rescind M-25-13.

OMB submits that these memoranda constitute its instruction to federal agencies regarding implementation of the President's Executive Orders. There was no instruction to pause all grants authorized by the IRA or the IIJA, without regard to the Executive Orders or applicable law.

**E. Supplemental Privilege Logs**

The Court granted Defendants until May 6, 2025, to supplement their privilege logs and instructed that only the privilege logs for EPA and USDA needed to be addressed. ECF No. 146 at 16. EPA and USDA are hereby providing supplemental privilege logs with supporting declarations. *See* Packard Supplemental Search Decl. (attached as Exhibit 5 with responsive documents); Packard Deliberative Process Decl. (attached as Exhibit 6, with Exhibit A, EPA Privilege Log); Buller Deliberative Process Decl. (attached as Exhibit 7, with Exhibits A, USDA Privilege Log).

Respectfully submitted,

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